

MONDAY, OCTOBER 26, 1998

Civil LARRY NEAL HERMAN ET AL.

No. v.

C026288 JOHN R. SNIDER ET AL.

Civil LARRY NEAL HERMAN ET AL.

No. v.

C027053 JOHN R. SNIDER ET AL.

BY THE COURT:

Respondent Bank of Lodi's petition for rehearing is denied.

Dated: October 26, 1998

SIMS, Acting P.J.

MONDAY, OCTOBER 26, 1998 CONTINUED

Crim. THE PEOPLE (Not for Publication)  
 No. v.  
 C024338 KENNETH RANDALL GRAHAM, SR. ET AL

THE COURT:

The opinion filed herein on September 30, 1998, is hereby modified as follows:

...

This modification does not change the judgment.

Appellant Paula Ephriam's petition for rehearing is denied.

BY THE COURT:

PUGLIA, P.J.  
 RAYE, J.  
 CALLAHAN, J.

At 9:30 a.m., the court met in the Library & Courts Building for a continuation of court calendar session.

PRESENT: BLEASE, Acting Presiding Justice  
 DAVIS, Associate Justice  
 SCOTLAND, Associate Justice

Bailiff: Conrad.  
 Calendar Called.

Civil HAROLD L. JENNINGS  
 No. v.  
 C025973 MAURICE O. RAY, JR.

Cause called. Dale W. Mahon argued for Plaintiff-Appellant. Steve J. Cottrell argued for Defendant-Respondent. Cause submitted.

Crim. THE PEOPLE  
 No. v.  
 C026311 CHARLES EARL GRANDERSON

Cause called. Deborah Tuttelman, court appointed counsel, argued for Defendant-Appellant. Brian G. Smiley, Deputy Attorney General, argued for Plaintiff-Respondent. Cause submitted.

MONDAY, OCTOBER 26, 1998 CONTINUED

At 10:10 a.m., court recessed. At 10:16 a.m., court reconvened with Acting Presiding Justice Davis in place of Acting Presiding Justice Blease, and Associate Justices Morrison and Associate Justice Callahan.

Civil           JEFFREY H. OCHRACH  
No.             v.  
C028794       CONSOLIDATE SIERRA GOLD MINES, INC.

Cause called. Vincent DiCarlo argued for Defendant-Appellant. Jeffrey H. Ochrach argued for Plaintiff-Respondent. Cause submitted.

At 10:33 a.m., court recessed. At 10:36 a.m., court reconvened with Acting Presiding Justice Morrison in place of Acting Presiding Justice Davis and Associate Justice Callahan. Counsel stipulated to the participation of Associate Justice Hull through review of court cassette tape of argument.

Civil           CINTHIA KANGAS  
No.             v.  
C027475       SOURCE ONE MORTGAGE SERVICES CORPORATION ET AL.

Cause called. Robert P. Biegler, of Biegler, Oppen & Ortiz argued for Cross-Complainant-Appellant. Mark P. Grajski, of Seyfarth, Shaw, Fairweather & Geraldson argued for Cross-Defendants-Respondents. Cause submitted.

At 10:58 a.m., court recessed. At 2:05 p.m., court reconvened with Acting Presiding Justice Blease and Associate Justices Scotland and Morrison present.

Civil           CITY OF SUISUN CITY  
No.             v.  
C027441       SUISUN SHORES DEVELOPMENT ET AL.

Cause called. Frederick G. Girard, of Kronick, Moskovitz, Tiedemann & Girard argued for Defendants-Appellants. David W. Skinner, of Meyers, Nave, Riback, Silver & Wilson argued for Plaintiff-Respondent. Cause submitted.

MONDAY, OCTOBER 26, 1998 CONTINUED

At 2:23 p.m., court recessed. At 2:26 p.m., court reconvened with Acting Presiding Justice Blease and Associate Justices Raye. Counsel stipulated to the participation of Associate Justice Hull through review of court cassette tape of argument.

Civil            LAWRENCE PHOENIX ET AL.  
No.                v.  
C028335        COUNTY OF SACRAMENTO ET AL.

Cause called. Daniel P. Whaley argued for Plaintiffs-Appellants. Timothy D. Weinland, of Deputy County Counsel argued for Defendants-Respondents. Cause submitted.

Court adjourned at 2:37 p.m., until 9:30 a.m., Monday, November 16, 1998.

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Civil            DCK                (Not for Publication)  
No.                v.  
C027104        JOHN TORRES

The judgment is affirmed.

CALLAHAN, J.

We concur:            PUGLIA, P.J.  
                              DAVIS, J.

Civil            DALE GORDON CLARY JR.                (Not for Publication)  
No.                v.  
C020914        DEPARTMENT OF TRANSPORTATION

The judgment is affirmed. The state shall recover costs on appeal.

RAYE, J.

We concur:            SIMS, Acting P.J.  
                              DAVIS, J.

Crim.            THE PEOPLE                (Not for Publication)  
No.                v.  
C027886        MARTY DEAN JOHNSON

The judgment is affirmed.

SCOTLAND, Acting P.J.

We concur:            NICHOLSON, J.  
                              HULL, J.

TUESDAY, OCTOBER 27, 1998

Crim. THE PEOPLE (Not for Publication)  
No. v.  
C028414 GEORGE LEE CLARK

The judgment is affirmed.

NICHOLSON, J.

We concur: SIMS, Acting P.J.  
CALLAHAN, J.

Crim. THE PEOPLE (Not for Publication)  
No. v..  
C025452 FLOYD E. MURPHY, JR.

The convictions are affirmed. The sentence is vacated and the matter is remanded for resentencing .

PUGLIA, P.J.

We concur: SCOTLAND, J.  
NICHOLSON, J.

Crim. THE PEOPLE (Not for Publication)  
No. v.  
C029480 JOHN THOMAS MACOMBER

The judgment is affirmed.

SCOTLAND, J.

We concur: DAVIS, Acting P.J.  
MORRISON, J.

Crim. THE PEOPLE (Not for Publication)  
No. v.  
C027333 MARCOS MOLINA

The judgment is reversed.

PUGLIA, P.J.

We concur: BLEASE, J.  
DAVIS, J.

TUESDAY, OCTOBER 27, 1998 CONTINUED

Crim. THE PEOPLE (Not for Publication)  
No. v.  
C028061 RICARDO MENDES CAMPOS

The judgment is affirmed.

RAYE, J.

We concur: BLEASE, Acting P.J.  
MORRISON, J.

Crim. THE PEOPLE (Not for Publication)  
No. v.  
C028548 ROSS CLAYTON WILLIS

The judgment is affirmed.

PUGLIA, P.J.

We concur: SCOTLAND, J.  
NICHOLSON, J.

Crim. THE PEOPLE (Not for Publication)  
No. v.  
C027569 JEFFREY MICHAEL GOMES

The judgment is affirmed.

PUGLIA, P.J.

We concur: BLEASE, J.  
DAVIS, J.

Crim. THE PEOPLE (Not for Publication)  
No. v.  
C025597 SEAN EVERETT MUSTILL

The judgment is affirmed.

NICHOLSON, J.

We concur: SCOTLAND, Acting P.J.  
MORRISON, J.

Crim. THE PEOPLE (Not for Publication)  
No. v.  
C025452 FLOYD E. MURPHY, JR.

The convictions are affirmed. The sentence is vacated and the matter is remanded for resentencing. ...

PUGLIA, P.J.

We concur: SCOTLAND, J.  
NICHOLSON, J.

TUESDAY, OCTOBER 27, 1998 CONTINUED

Crim. THE PEOPLE (Not for Publication)  
 No. v.  
 C026891 TERRANCE JOSEPH WERNICKE

The sentence is vacated and the case is remanded for resentencing in accordance with the views expressed in this opinion . . . . In all other respects, the judgment is affirmed.

RAYE, J.

I concur: MORRISON, J.

I concur in the opinion and judgment except as to part IV, as to which I dissent.

BLEASE, Acting P.J.

Civil DARLYS A. SOUZA (Not for Publication)  
 No. v.  
 C026449 PUBLIC EMPLOYEES' RETIREMENT SYSTEM

The judgment is affirmed.

PUGLIA, P.J.

We concur: RAYE, J.

CALLAHAN, J.

Civil JOHNNY D. (Not for Publication)  
 No. v.  
 C030348 SUPERIOR COURT OF BUTTE COUNTY  
 CHILDREN'S SERVICE DIVISION ET AL.

The petition is denied.

BLEASE, Acting P.J.

We concur: RAYE, J.

MORRISON, J.

WEDNESDAY, OCTOBER 28, 1998

Civil IN RE JOSHUA G., A MINOR (Not for Publication)  
No. -----

C029810 THE PEOPLE

v.

JOSHUA G.

The judgment is affirmed.

MORRISON, J.

We concur: BLEASE, Acting P.J.

RAYE, J.

Civil BOBBY S. DUTTA (Not for Publication)  
No. v.

C027649 CHARLES YOUNG ET AL.

The disqualification order is affirmed.

DAVIS, J.

We concur: PUGLIA, P.J.

BLEASE, J.

Civil MARIE R. PETERSEN (Not for Publication)  
No. v.

C027588 CALIFORNIA STATE COUNCIL ON DEVELOPMENTAL  
DISABILITIES ET AL.

The judgment is affirmed.

DAVIS, J.

We concur: PUGLIA, P.J.

MORRISON, J.

Civil LOIS JEAN DICKERSON AND MARICA M. BUSH  
No. v. (Not for Publication)

C027264 BARBARA JOYCE RUSSELL

As modified, the judgment is affirmed. All parties will pay their  
own appellate costs.

DAVIS, Acting P.J.

We concur: MORRISON, J.

CALLAHAN, J.



WEDNESDAY, OCTOBER 28, 1998, CONTINUED

Civil            DEAN FALLTRICK                            (Not for Publication)  
No.                v.  
C025629        THE EQUITABLE LIFE ASSURANCE SOCIETY OF THE UNITED  
STATES

The judgment is affirmed.

PUGLIA, P.J.

We concur:   SCOTLAND, J.  
                  NICHOLSON, J.

Civil            REPUBLIC SERVICE BUREAU, INC.                            (Not for Publication)  
No.                v.  
C024836        DATA CONTROL CORPORATION ET AL.  
JEROME A. SORKING

The judgment is affirmed. The parties shall bear their own costs on  
appeal.

PUGLIA, P.J.

We concur:   DAVIS, J.  
                  MORRISON, J.

Civil            STATE OF CALIFORNIA                            (Not for Publication)  
No.                v.  
C027460        UNITED NATIONAL INSURANCE COMPANY

The judgment is affirmed.

CALLAHAN, J.

We concur:   SIMS, Acting P.J.  
                  MORRISON, J.

Civil            JOHN ROTH    (Certified for Publication)  
No.                v.  
C027262        GEORGE E. MALSON

The judgment is affirmed. Defendant shall recover his costs on  
appeal.

SIMS, Acting P.J.

I concur:      HULL, J.  
I respectfully dissent. RAYE, J.

WEDNESDAY, OCTOBER 28, 1998, CONTINUED

Civil No. C027815	ESTATE OF EARL S. LINDAUER, DECEASED ----- EARL S. LINDAUER, JR.                      ( Not for Publication) v. SALLY O. FINEFROCK The judgment is affirmed.  We concur:    SCOTLAND, J. CALLAHAN, J.	DAVIS, Acting P.J.
Civil No. C027475	CINTHIA KANGAS                                      (Not for Publication) v. SOURCE ONE MORGAGE SERVICES CORPORATION ET AL. The judgment is affirmed.	CALLAHAN, J.
	We concur:    MORRISON, Acting P.J. HULL, J.	
Civil No. C029545	IN RE BOBBIE S., A MINOR                      (Not for Publication) ----- SAN JOAQUIN COUNTY HUMAN SERVICES AGENCY v. CLAUDIA S. The orders of the juvenile court are affirmed.	CALLAHAN, J.
	We concur:    SIMS, Acting P.J. NICHOLSON, J.	
Crim. No. C028041	THE PEOPLE                                      (Not for Publication) v. LITTLE BILL ROBBINS The judgment is affirmed.	CALLAHAN, J.
	We concur:                      SIMS, J. NICHOLSON, J.	

THURSDAY, OCTOBER 29, 1998

Civil            PAULINE MATTOON ET AL.            (Not for Publication)  
 No.            v.  
 C027571      ORLAND SCHOOL DISTRICT  
                  The judgment is reversed. Plaintiffs shall recover costs on appeal.  
                  RAYE, J.  
                  We concur: SIMS, Acting P.J.  
                  CALLAHAN, J.

Crim.           THE PEOPLE            (Not for Publication)  
 No.            v.  
 C027710      TIMOTHY DEAN FUNK  
                  The judgment (order of probation) is affirmed.  
                  SIMS, Acting P.J.  
                  We concur: NICHOLSON, J.  
                  CALLAHAN, J.

Crim.           THE PEOPLE            (Not for Publication)  
 No.            v.  
 C028088      ATHAN LEE PHILLIPS  
                  The judgment is affirmed.  
                  SCOTLAND, J.  
                  We concur: SIMS, Acting P.J.  
                  DAVIS, J.

Crim.           THE PEOPLE            (Not for Publication)  
 No.            v.  
 C029044      PAUL FLOYD VERDUGO  
                  The judgment is affirmed.  
                  HULL, J.  
                  We concur: BLEASE, Acting P.J.  
                  RAYE, J.

THURSDAY, OCTOBER 29, 1998, CONTINUED

Crim. THE PEOPLE (Not for Publication)  
 No. v.  
 C028502 ENRIQUE ALBERTO RUIZ

The judgment is affirmed. The trial court is directed to correct the abstract of judgment to reflect an \$800 restitution fine stayed pending successful completion of parole.

RAYE, J.

We concur: BLEASE, J.  
 HULL, J.

Crim. THE PEOPLE (Not for Publication)  
 No. v.  
 C027614 JOSEPH GONZALES

As modified, the judgment is affirmed. The superior court is directed to prepare an amended abstract of judgment and forward a certified copy to the Department of Corrections.

NICHOLSON, J.

We concur: PUGLIA, P.J.  
 HULL, J.

Crim. THE PEOPLE (Not for Publication)  
 No. v.  
 C028841 RUSSELL MICHAEL McCLOSKEY

The judgment is affirmed.

SCOTLAND, J.

We concur: SIMS, Acting P.J.  
 DAVIS, J.

Crim. THE PEOPLE (Not for Publication)  
 No. v.  
 C022497 GARY CONTRERAS ET AL.

The judgment is affirmed.

DAVIS, J.

I concur: CALLAHAN, J.  
 I concur in the result: BLEASE, Acting P.J.

THURSDAY, OCTOBER 29, 1998, CONTINUED

Civil           TARA DUCHI                   (Not for Publication)  
 No.            v.  
 C029031       SCOTT ROLAND

The appeal is dismissed.

NICHOLSON, J.

We concur:   BLEASE, Acting P.J.  
                   RAYE, J.

Civil           DELMER ACKER               (Not for Publication)  
 No.            v.  
 C028538       SACRAMENTO TITLE COMPANY

The judgment is affirmed. Defendant shall receive its costs on appeal.

SIMS, Acting P.J.

We concur:   RAYE, J.  
                   CALLAHAN, J.

Civil           IN RE CHRISTOPHER F., A MINOR   (Not for Publication)  
 No.            -----  
 C028009       SAN JOAQUIN COUNTY HUMAN SERVICES AGENCY  
                   v.  
                   CATHY W.

The orders appealed from are affirmed.

SIMS, Acting P.J.

We concur:   NICHOLSON, J.  
                   CALLAHAN, J.

Civil           STANLEY LEVIN ET AL.           (Not for Publication)  
 No.            v.  
 C027346       RICK DAVIS

The judgment is affirmed.

RAYE, J.

We concur:   PUGLIA, P.J.  
                   CALLAHAN, J.

THURSDAY, OCTOBER 29, 1998, CONTINUED

Civil            ROBERT K. STEPHENSON ET AL.            (Not for Publication)  
 No.            v.  
 C027391      BEVERLY J. WALTON ETC.  
                  The order of dismissal is affirmed.  
                  CALLAHAN, J.  
 We concur:   PUGLIA, P.J.  
                  DAVIS, J.

Civil            LARRY T. JOHNSON            (Not for Publication)  
 No.            v.  
 C024317      UNITED SERVICES AUTOMOBILE ASSOCIATION  
                  The judgment is affirmed.  
                  DAVIS, Acting P.J.  
 We concur:   RAYE, J.  
                  MORRISON, J.

Crim.           THE PEOPLE            (Not for Publication)  
 No.            v.  
 C029278      GARY LEE MULLIKIN  
                  The judgment is affirmed.  
                  RAYE, J.  
 We concur:      BLEASE, Acting P.J.  
                  HULL, J.

FRIDAY, OCTOBER 30, 1998

Civil            LUCKEY COMPANY  
 No.            v.  
 C027679      ROGER REMONDA ET AL.  
                  BY THE COURT:  
                  Appellants' motion to reinstate the appeal is granted. The order filed  
                  on October 1, 1998, is vacated, and the appeal is reinstated.  
                  Appellants' opening brief is due to be served and filed on or before  
                  November 16, 1998.  
 Dated:            October 30, 1998  
                  PUGLIA, P.J.

FRIDAY, OCTOBER 30, 1998

Civil           JEFFREY H. OCHRACH           (Not for Publication)  
 No.            v.  
 C028794       CONSOLIDATED SIERRA GOLD MINES, INC.

The post-judgment orders modifying the judgment and denying the motion to vacate are affirmed. Ochrach shall recover costs on appeal.

MORRISON, J.

We concur:           DAVIS, Acting P.J.  
                           CALLAHAN, J.

Crim.           THE PEOPLE                   (Not for Publication)  
 No.            v.  
 C029470       GERALD DWAIN AKE

The judgment is affirmed.

MORRISON, J.

We concur:           DAVIS, Acting P.J.  
                           SCOTLAND, J.

Civil           HAROLD L. JENNINGS           (Not for Publication)  
 No.            v.  
 C025973       MAURICE O. RAY, JR.

The judgment is affirmed.

SCOTLAND, J.

We concur:           BLEASE, Acting P.J.  
                           DAVIS, J.

Crim.           THE PEOPLE                   (Not for Publication)  
 No.            v.  
 C026311       CHARLES EARL GRANDERSON

The judgment is affirmed.

SCOTLAND, J.

We concur:           BLEASE, Acting P.J.  
                           DAVIS, J.

FRIDAY, OCTOBER 30, 1998

Civil           SUNSWEET GROWERS, INC.           (Not for Publication)  
No.               v.  
C028259       WATER SCIENCE TECHNOLOGIES, INC. ET AL.

The judgment is affirmed. The motion for sanctions is denied.  
Sunsweet shall recover costs on appeal.

CALLAHAN, J.

We concur:           DAVIS, Acting P.J.  
                              RAYE, J.

Juvenile       VALERIE W.                   (Not for Publication)  
No.               v.  
C030432       SUPERIOR COURT OF YUBA COUNTY  
                  DEPARTMENT OF SOCIAL SERVICES

The petition is granted in part. The juvenile court is directed either to determine whether, on the evidence presented, petitioner resisted treatment within three years prior to detention of the minor and services may therefore be denied pursuant to section 361.5, subdivision (b) (12), or to hold a new hearing to determine whether petitioner should receive reunification services. In all other respects, the petition is denied.

BLEASE, Acting P.J.

We concur:           RAYE, J.  
                              MORRISON, J.